

Terms of Use

Welcome to the 'Date a Tradie App' (**App**). Before you install and use the App, you must agree to these Terms of Use.

You accept and are legally bound by these Terms of Use by using the App. Please read them carefully.

Capitalised terms are defined in section 18 below.

1. Using the App

- (a) You must only use the App:
 - (i) for your own personal use (and not for commercial gain);
 - (ii) for lawful purposes; and
 - (iii) in a manner that does not infringe the rights of third parties or restrict or inhibit the use and enjoyment of the App by any third party.
- (b) You must not use the App:
 - (i) to send commercial or unrelated messages to other users of the App;
 - (ii) to harass or cause distress or inconvenience to any person;
 - (iii) to bully, stalk, intimidate or defame any person; or
 - (iv) to transmit obscene or offensive content.
- (c) You must not:
 - (i) post or transmit by the App any unlawful, racist, sexist, discriminatory, defamatory, obscene, offensive or scandalous material, or any material that constitutes or encourages conduct that would contravene any law;
 - (ii) create another account if we have already terminated your account, unless you have our permission;
 - (iii) share your account details with another person;
 - (iv) upload Harmful Code or otherwise compromise the security of the App;
 - (v) use or develop any third-party applications that interact with the App or Content or other user's information without our written consent;
 - (vi) use, access, or publish the App programming interface without our written consent; or
 - (vii) probe, scan or test the vulnerability of the App or any system or network.

2. Eligibility

To use this App:

- (a) you must be at least 18 years old;
- (b) you must not have been convicted of sexual assault, grievous bodily harm, manslaughter or murder (or attempted offences), whether or not such

conviction has been spent, and that you are not registered or required to register as a sex offender with any government entity; and

- (c) all information that you provide to us is true and correct.

You represent and warrant to us that the above matters are true in all respects.

3. Disclaimer

You are solely responsible for your use of the App and Content. You accept all risks and consequences from your use of the App and Content. This includes any risk:

- (a) your computer, mobile phone device, software or data is damaged by any Harmful Codes transmitted or activated by the App; or
- (b) of connections transmitted to and from the App being intercepted and modified by third parties.

4. Interruption of Service

- (a) We do not warrant that your access to the App will be uninterrupted (except to the extent, if any, that such warranty may be implied by law and incapable of exclusion, for example under a Prescribed Term.
- (b) We will use our reasonable efforts to provide access to the App at all times. However, if necessary in our sole discretion, we may suspend your access to the App.
- (c) We will not be liable to you or third parties for interruptions to the App beyond our control including:
 - (i) problems with telecommunications services;
 - (ii) problems with internet service providers; or
 - (iii) problems with hardware or software,except to the extent, if any, that we cannot lawfully exclude such liability.
- (d) You acknowledge that your use of the App requires an Internet or mobile data connection, which is your own responsibility.

5. Safety

- (a) Though we strive to encourage a respectful user experience through features like the double opt-in that only allows users to communicate if they have both indicated interest in one another, we are not responsible for the conduct of any user on or off of the App.
- (b) You must:
 - (i) take all necessary precautions when communicating with or meeting individuals;
 - (ii) use caution in all interactions with other users, particularly if you decide to communicate off the App or meet in person; and
 - (iii) not provide your financial information (for example, your credit card or bank account information), or wire or otherwise send money, to other users.
- (c) You are solely responsible for your interactions with other users. you understand that we do not conduct criminal background checks on the Apps' users or otherwise inquire into the background of the Apps' users. We make

no representations or warranties as to the conduct of users. We reserve the right to conduct any criminal background check or other screenings at any time using available public records.

6. Limitation of Liability

- (a) The Australian Consumer Law or other Prescribed Terms may apply to your use of this App. If such Prescribed Terms state that there is a guarantee in relation to a product or service supplied to you by us, and our liability under that guarantee cannot be excluded but may be limited, then our liability for a breach of that guarantee is limited at our option to: (i) resupply of that service or product or paying the cost of having that service or product supplied again; or (ii) a remedy of our choice permitted by the Prescribed Terms.
- (b) Subject to the above and to the extent permitted by any Prescribed Terms:
 - (i) all conditions, warranties, terms, and obligations expressed or implied by law or otherwise relating to the App, the Content, or accuracy of any information on the App, or in connection with these Terms of Use are excluded;
 - (ii) all liability to any person arising directly or indirectly from the App, Content or these Terms of Use is excluded;
 - (iii) we do not give any representation or warranty of any kind (whether express, implied, statutory or otherwise) including in relation to the availability, accuracy, currency, completeness, quality, reliability or suitability for any purpose of the App or its Content, or that the App or its Content will not infringe any third party intellectual property rights, or that the App or its Content will be free from Harmful Code or other security threats or vulnerabilities including those which could cause loss or damage to You; and
 - (iv) any information provided to the App is done at your own risk and judgment. We will use reasonable efforts to prevent any loss of data by using the App. However, protecting that information will be your responsibility. We provide no warranty in this regard. We assume no responsibility for any failure to store any of your content, user communications or settings.

7. Indemnity

You agree, to the extent permitted under any Prescribed Terms, to indemnify, defend and hold harmless, us and our respective officers, directors, agents, and employees from and against any and all complaints, demands, claims, damages, losses, costs, liabilities and expenses, including legal fees, due to, arising out of, or relating in any way to negligent acts, omissions or wilful misconduct by You, your violation of any law or of any rights of any third party, your access to or use of the App, Content, or your breach of these Terms of Use.

8. Intellectual Property

- (a) The App and Content are protected by copyright, trade mark and other intellectual property laws unless expressly indicated otherwise. your use of the App does not affect any pre-existing copyright, trademark and other intellectual property rights that subsist in the App or Content.
- (b) You acknowledge and agree that: (i) you do not acquire any proprietary rights in the App or Content; and (ii) you will not, and will not assist or facilitate any third party, to reproduce, transmit, publish, display, distribute, commercially exploit, tamper with, modify, adapt, develop, decompile, reverse engineer or

create derivative works of the App or Content in any way without our written consent.

- (c) We grant you a revocable and royalty-free licence to use the App and Content subject to these Terms of Use.
- (d) You grant us and you represent and warrant that you have the right to grant, an irrevocable, perpetual, non-exclusive, fully-paid, worldwide license to edit, copy, modify, adapt, translate, reformat, create derivative works from, incorporate into other works, advertise, distribute and otherwise make available to the public, any information or content that: (i) you provide to the App; (ii) you provide on any profile pages or public areas of the App; and (iii) you make accessible to us by linking your App account to any of your social network accounts (e.g. Facebook).
- (e) Our logo is our registered trademark and remains our property. By using the App, you may also access the registered trademarks of other third parties. Unless otherwise provided for under these Terms of Use, you are not provided any authorisation to reproduce or utilise our registered trademark, or the third parties' trademarks for any activity other than those prescribed under these Terms of Use.
- (f) If you believe that any Content violates or infringes upon your intellectual property rights, please notify us immediately at using the contact details below, with all specifics necessary for us to consider and respond to your complaint.

9. Links

- (a) Where the App contains links to other websites or applications and resources provided by third parties (**External Sources**), these links are provided for your information only. We have no control over the contents of these websites, applications or resources. We accept no responsibility for: (i) the External Sources; (ii) any loss or damage that may arise from your use of the External Sources; or (iii) use of any information the External Sources may acquire about you (including personal information).
- (b) A link to an External Source on the App does not constitute an endorsement by us of (i) the External Source; (ii) the company or organisation behind the External Source; or (iii) the contents of the External Source.
- (c) You must not, and agree not to assist or facilitate any third party to, create a link to our App without our prior express written consent.

10. In-App purchases

- (a) We may make certain products and/or services available to you in consideration of a subscription fee or other fees (**Premium Services**), including the ability to purchase products, services and enhancements on a one-off or continuing basis. If you choose to use Premium Services, you acknowledge and agree that additional terms may apply to your use of, access to and purchase of such Premium Services, and such additional terms are incorporated into these Terms of Use.
- (b) For on-going Premium Services made on a subscription basis, your subscription will automatically renew for the same subscription period as you initially purchased. To avoid any charges for additional periods, you must cancel before the end of the subscription period or renewal, as applicable.
- (c) Once you have requested a Premium Service or you authorize us to charge your chosen payment method, your payment is non-refundable. If payment is

not received by us from your chosen payment method, you agree to promptly pay all amounts due upon demand by us.

- (d) We are not responsible and have no liability whatsoever for Premium Services you may obtain through a third party store, our third party service providers or other web sites or web pages.
- (e) If you want to cancel or change your payment method at any time, you can do so via the payment settings option in the App or third party store.

11. Security

- (a) We strive to protect all users of the App. We will use all reasonable endeavours to ensure that your information is protected. However, we cannot guarantee that no Harmful Code will enter the App.
- (b) You should be aware of the risks associated with using the App.
- (c) We recommend that you use appropriate and up-to-date firewall and anti-virus software to protect your systems and information.
- (d) We accept no responsibility for the accuracy of the information in advertisements or content that is placed on the app.

12. Variation

- (a) To the extent permitted by any Prescribed Terms, we may vary, change or discontinue these Terms of Use or any feature of the App at any time, including Content, hours of availability, pricing and equipment required for access.
- (b) New App features or enhancements may be added or removed from time to time and if these actions do not materially affect your rights or obligations, we may not provide you with notice before taking them.
- (c) In the majority of circumstances, we will update the App to notify you of any changes made under section 12(a). You may not be able to install any update or continue using the App if you do not accept any changes made to these Terms of Use.

13. Complaints

- (a) If you want to make a complaint about the App you must:
 - (i) submit the complaint in writing to us using the contact details below;
 - (ii) submit the complaint within 30 days after the conduct which gave rise to the complaint is alleged to have occurred;
 - (iii) disclose your name and contact details;
 - (iv) clearly state the nature and circumstances of the complaint;
 - (v) attach to the complaint such evidence and submissions as you wish to rely on in support of your complaint; and
 - (vi) disclose the names, and relevant contact details of persons whose evidence will be relied on by you.
- (b) We will exercise our discretion reasonably and determine a resolution on the basis of evidence before us. If you are unhappy with the outcome, you may refer the matter to our CEO for review, or follow the procedure set out in section 14.

14. Disputes

- (a) If either of us claim that a dispute has arisen, notice must be given to the other specifying the nature of the dispute prior to initiating legal proceedings (other than urgent interlocutory injunctions).
- (b) On receipt of that notice, you and us must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as negotiation, mediation, expert evaluation or determination or similar techniques agreed by us.
- (c) If we do not agree within 7 days of receipt of the notice (or such further period as agreed in writing by them) as to: (i) the dispute resolution technique and procedures to be adopted; (ii) the timetable for all steps in those procedures; and (iii) the selection and compensation of the independent person required for such technique, then we must mediate the dispute in accordance with the mediation rules of the Law Society of New South Wales and the president of the Law Society of New South Wales or the president's nominee will select the mediator and determine the mediator's remuneration.

15. Termination

15.1 Termination by you

You may terminate your account at any time, for any reason, by following the instructions in "Settings" in the App. We will save your profile information in case you decide to restore your account (which you can do within 90 days of de-activating your account).

15.2 Termination by us

- (a) We may terminate these Terms of Use or discontinue your access to any part of the App, immediately by written notice to you, if:
 - (i) You are in material breach of any provision of these Terms of Use and (where the breach is capable of remedy) you have failed to remedy the breach within 3 days of receipt of written notice from us describing the breach and calling for it to be remedied; or
 - (ii) You fail to pay any amount owing to us within 7 days of the due date of payment.
- (b) We may terminate these Terms of Use or discontinue your access to any part of the App, on 30 days written notice, for any reason.

16. Privacy

- (a) For more information about how we protect your privacy and personal information, please see our Privacy Policy at http://www.dateatradieapp.com/wp-content/uploads/2017/04/DateATradie_Application_Privacy_Policy_6261354056728444928.pdf.
- (b) We will only use and disclose your personal information to a person, body or other agency:
 - (i) to provide you with a service that you have requested;
 - (ii) in accordance with our Privacy Policy; or
 - (iii) as required or authorized by law.

17. General

- (a) Please contact us if you have any questions, problems or feedback regarding the App. our contact details are on our App.
- (b) These Terms of Use are governed by the laws of New South Wales, Australia and you must submit to the exclusive jurisdiction of the courts of New South Wales, Australia.
- (c) If any of these Terms of Use, are determined by any competent authority to be invalid, unlawful or unenforceable to any extent, that term, condition or provision (or part thereof) will to that extent be severed from the remaining Terms of Use, which will continue to be valid to the fullest extent permitted by law.
- (d) No failure or delay by us in exercising any right under these Terms of Use will operate as a waiver of this right. Similarly, any single or partial exercise of any right will not preclude any further exercise of any of these rights or the exercise of any other right.
- (e) Nothing in these Terms of Use will be construed as creating any agency, partnership or any other form of joint enterprise between you and Us.
- (f) We are entitled to assign, transfer, sub-licence, charge or otherwise deal with our rights under these Terms of Use as we see fit.
- (g) These Terms of Use including any document expressly referred to in them, represent our entire agreement with you in relation to the subject matter of the Terms of Use and supersede any prior agreement, understanding or arrangement between us, whether oral or in writing.

18. Definitions

In these Terms of Use:

Australian Consumer Law means Schedule 2 of the *Competition and Consumer Act 2010 (Cth)* and related regulations as amended from time to time.

Content means information, text, materials, graphics, software, tools, results derived from the use of software and tools, advertisements, names, logos and trade marks on or available from the App.

Harmful Code means any form of harmful surreptitious code or other contaminants, including disabling codes, worms, viruses, bugs, trojan horses, spyware or adware.

Our, us and **we** means Date A Tradie Application Pty. Ltd. ACN 613 645 042 of Suite G, 123 Walker Street, North Sydney NSW 2060 Australia. Unless the context otherwise requires, such a reference also includes our related bodies corporate.

Prescribed Terms mean terms, conditions and warranties implied by the law in your jurisdiction, into some contracts for the supply of goods or services and which the law expressly provides may not be excluded, restricted or modified or may be excluded, restricted or modified only to a limited extent (and may include the Australian Consumer Law).

You and **your** means the user of the App.

19. Contact details

Post: Date a Tradie Application Pty Ltd
Suite G, 123 Walker Street
North Sydney NSW 2060
Australia

Email: admin@dateatradieapp.com